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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,187	03/13/2001	Robert J. Tuttle	PC-738CIP	1707

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LAW OFFICES OF BRIAN S STEINBERGER  
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EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 04/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/805,187

Applicant(s)

TUTTLE, ROBERT J.

Examiner

Joseph T Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, lines 2-3, 8,10, and 11, and claim 5 line 3 the term "echo" and/or phrase "echo cancellation sounds" is unclear which makes the claim indefinite. It is not known if "echo" is referring to an echo from the recorded message sent by the dialing system and where the echo is originating from. An echo is a repetition of a sound and not the origination of a sound. Also "echo cancellation sounds" is contradictory as if an echo is cancelled then no sound should be heard. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**4. Claims 1-7 rejected under 35 U.S.C. 102(e) as being anticipated by Cox et al., Patent #6,233,319.**

Regarding claim 1, Cox teaches an automated method of delivering a recorded information message via a telephone dialing system to an automated recorder while simultaneously monitoring the recorder for echo cancellation sounds, comprising the steps of:

- (a) placing a telephone call to an answering machine and playing a recorded information message onto the answering machine(166-170 Fig.3 and col.2 lines 15-25);
- (c) monitoring the answering machine for echo cancellation sounds while simultaneously playing the recorded message (172-176 Fig.3 and col.1 lines 52-65);
- (d) repeating step (b) for echo cancellation sounds(col.2 lines 18-25); and
- (e) continuing to play the recorded message if there are no echo cancellation sounds, wherein the method overcomes problems with premature launching of the recorded message so that the recorded message can be launched closer to the time when the answering machine begins recording(176-178 Fig.3 and col.4 lines 11-41).

Regarding claim 2, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein the echo cancellation sounds includes:

sounds being emitted from the answering machine (col.4 lines 3-10).

Regarding claim 3, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein step(d) further includes:

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repeating step (b) for less than three sound occurrences (col.2 lines 20-24; a message replayed just once is less than three sound occurrences).

Regarding claim 4, Cox teaches the automated method of delivering the recorded information message of claim 1, wherein step(e) further includes: continuing to play the recorded message if there are there are at least three echo cancellation sounds(col.2 lines 20-24; at least three echo cancellation sounds can be predetermined).

Regarding claim 5, Cox teaches the automated method of delivering the recorded information message of claim 1, further comprising the steps of-

(f) removing echo monitoring and continuing to play the recorded message to completion (col.3 lines 34-54).

Regarding claim 6, Cox teaches the automated system for delivering recorded information messages of claim 1, wherein the answering machine of step(a) is chosen from one of:

a tape machine, a digital machine, a pager, a telephone provider voice/memory call machine, and a cellular machine(42 Fig.1, col.2 lines 40-44, and col.4 lines 54-64; it is understood that at least one of these machines can be the recipient).

Regarding claim 7, Cox teaches the automated system for delivering recorded information messages of claim 1, wherein step(a) includes:

(a)(i) placing a telephone call to a telephone number selected from a database of telephone numbers(col.2 lines 45-48);

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(a)(ii) monitoring status of the call to determine if the call is connected or not connected(166 Fig.3), if the call is connected go to step (a)(iv), if the call is not connected go to step(a)(iii);

(a)(iii) disconnecting the call and updating the database to reflect the call being not connected, and go to step (a)(i) select another telephone number from the database (col.3 lines 7-67); and (a)(iv) determine if an answering machine noise signal is detected and if so go to step (b) (176 Fig.3); and

(a)(v) determine if a live cadence/voice signal is detected and if so go to step (b); and

(b) playing a recorded information message (col.1 lines 51-65).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 8:30-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP

April 3, 2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

